

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

)	
In re:)	Chapter 15
)	
PB LIFE AND ANNUITY CO. LTD, et al.,)	Case No. 20-12791-lgb
)	(Jointly Administered)
Debtors in Foreign Bankruptcy Proceeding.)	
)	
UNIVERSAL LIFE INSURANCE COMPANY,)	
)	Adv. Proc. No. 21-01169-lgb
Plaintiff,)	
)	
v.)	DECLARATION OF
)	LIAM O'BRIEN, ESQ.
GLOBAL GROWTH HOLDINGS, INC, et al.,)	
)	
Defendants.)	
)	

**DECLARATION OF LIAM O'BRIEN IN SUPPORT OF
DEFENDANT HUTCHISON PLLC'S MOTION TO DISMISS**

I, LIAM O'BRIEN, under penalty of perjury, hereby declare as follows:

1. I am the attorney for defendant Hutchison PLLC ("Hutchison") in the above-captioned matter, incorrectly named in the lawsuit as Hutchison Law Group, PLLC, and as such, I am fully familiar with this action and the facts surrounding the instant motion.

2. Hutchison is a law firm with two offices in North Carolina and one in Georgia.

3. I submit this declaration in support of Hutchison's opposition to plaintiff Universal Life Insurance Company's motion for leave to file a second amended complaint. [ECF No. 159].

4. Plaintiff initiated this adversary proceeding on or about July 6, 2021.

5. Plaintiff filed a First Amended Complaint in this proceeding on July 30, 2021 ("amended complaint"). A copy of the Amended Complaint is attached hereto as Exhibit "A".

6. Plaintiff alleged in the amended complaint that it is a creditor of debtor Private Bankers Life & Annuity Co., Ltd. (“PBLA”), and that it has an unsatisfied judgment against PBLA in the amount of \$524,009,051.26. See Exhibit A, ¶ 8.

7. Plaintiff further alleged that PBLA oversaw a trust on behalf of Plaintiff, that PBLA was ultimately owned by Greg E. Lindberg (“Lindberg”), and that Lindberg conspired with others to transfer hundreds of millions of dollars of trust assets to Lindberg-controlled limited liability companies and corporations. See Exhibit A, ¶¶ 1-5.

8. Plaintiff named ninety-three (93) defendants in its amended complaint, including Hutchison, and asserted six causes of action, namely: voidable transfer; unjust enrichment; conversion; constructive trust; fraud; and breach of fiduciary duty. See Exhibit A.

9. The amended complaint did not contain a single substantive allegation with respect to Hutchison.

10. Instead, the amended complaint grouped Hutchison together with dozens of corporate or commercial defendant entities which are or were alleged alter egos of Lindberg. See Exhibit A, ¶ 105.

11. In totality, the amended complaint contained the following single ministerial allegation with respect to Hutchison:

Defendant Hutchison Law Group, PLLC is a North Carolina professional limited liability company located at 3110 Edwards Mill Road, Suite 300, Raleigh, NC 27612. It has no members who are citizens of Puerto Rico.

[Exhibit A, ¶ 69].

12. The amended complaint did not allege that Hutchison committed any tortious, actionable or wrongful acts or omissions with respect to the Plaintiff or Debtor entities.

13. Accordingly, on October 1, 2021, Hutchison filed a motion to dismiss the amended

complaint pursuant to FRCP 8(a)(2), FRCP 9(b) and FRCP 12(b)(6). [ECF No. 65].

14. On December 6, 2021, Plaintiff filed an omnibus opposition to the defendants' motions to dismiss. [ECF No. 111].

15. Hutchison filed a reply to Plaintiff's omnibus opposition on January 13, 2022. [ECF No. 132].

16. The Court issued an Amended Scheduling Order on January 21, 2022, adjourning the defendants' motions to dismiss *sine die*, and setting a briefing schedule allowing Plaintiff to submit a motion for leave to file a second amended complaint. [ECF No. 144].

17. On February 25, 2022, Plaintiff filed a motion for leave to file a second amended complaint. [ECF No. 159].

18. A copy of the proposed second amended complaint was attached to Plaintiff's motion as Exhibit A. [ECF No. 159-1]. See copy of Proposed Second Amended Complaint attached hereto as Exhibit "B".

19. On January 26, 2022, prior to the filing of Plaintiff's motion for leave, counsel for Plaintiff sent an email correspondence to this declarant requesting information regarding two disbursements to Hutchison which took place on August 23, 2017 and September 6, 2017, and which totaled \$16,868,371.00. See January 26, 2022 email attached hereto as Exhibit "C".

20. This declarant responded to Plaintiff's counsel by email dated February 16, 2022, providing a detailed explanation with respect to the two disbursements and the parties involved. Plaintiff's counsel was advised that the transfers occurred in the context of Hutchison's involvement as legal counsel in an Eli Global entity's purchase of an unaffiliated software business. More specifically, the funds were utilized to finance the acquisition of the unaffiliated business, and were temporarily remitted to the Hutchison trust account and then disbursed in the

manner that the parties to the transaction had agreed.

21. Hutchison is not a proper party to this adversary proceeding.

Pursuant to 28 U.S.C. § 1746, I declare, under the penalty of perjury, that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated: March 18, 2022
New York, New York

McCORMICK & O'BRIEN, LLP

BY: 

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